

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

GERALD G. DALTON
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-428
Case No. 82-1217

S.S.A. No.

ALBERTSON'S FOOD CENTER
(Employer)

Employer Account No.

Office of Appeals No. VN-26391

The employer appealed from the decision of the administrative law judge which held that the claimant was entitled to unemployment insurance benefits and that the employer's reserve account was not relieved of charges.

STATEMENT OF FACTS

The claimant was last employed by the above employer as a grocery clerk since 1972 at a terminal wage of \$9.10 an hour. He was working 25 to 30 hours per week on various shifts.

The claimant's last day of work was May 16, 1981. At that time he decided to enter an alcohol recovery facility pursuant to the recommendation of his family doctor. He discussed the matter with his supervisor, who granted him permission to be off work until approximately June 15, 1981. This leave was later extended by an additional week.

The claimant is 50 years of age and has been an alcoholic for 12 to 15 years. He testified that he had consumed a "quart" per day. His wife had threatened several times to leave him because of his drinking.

OVERRULED

The claimant remained in the alcohol recovery facility for about a month. While there, he was under the care of a physician and received unemployment disability benefits.

The claimant came to the conclusion that a change of environment was essential to stop his drinking and preserve his marital unity. He felt that his varying shifts were partly responsible for his problem. He discussed the matter with his doctors, who told him it would be better for him to find something else to do and to disassociate himself from his drinking companions.

On or about June 21, 1981 the claimant notified the employer of his resignation. On July 10, 1981 the claimant and his family moved to Maine, where his wife had relatives. He has had nothing to drink since leaving the alcohol recovery facility and his marriage is no longer threatened.

The claimant did not request a further leave of absence from the employer. The collective bargaining agreement contains a provision for medical leaves of absence of up to six months.

According to the employer, the claimant exhibited no alcohol-related problems at work.

REASONS FOR DECISION

Section 1256 of the California Unemployment Insurance Code provides that an individual is disqualified for benefits, and sections 1030 and 1032 of the code provide that the employer's reserve account may be relieved of benefit charges, if the claimant left his most recent work voluntarily without good cause.

The Appeals Board held in Appeals Board Decision No. P-B-27 that there is good cause for the voluntary leaving of work where the facts disclose a real, substantial, and compelling reason of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action.

OVERSPOOLED

In Rabago v. Unemployment Insurance Appeals Board (1978), 84 C.A.3d 200, 148 Cal.Rptr. 499, the claimant left work because of his fear of lead poisoning at the employer's plant. The court held that where a claimant voluntarily quits his job because of objectively established reasonable concerns for his health and safety arising from the work environment, he will have done so with good cause. The court cited with approval Appeals Board Decisions Nos. P-B-144 and P-B-263.

In Appeals Board Decision No. P-B-144 the Appeals Board held that a claimant had good cause for leaving work where her assigned work exposed her to cold temperatures that would endanger her health, safety and comfort.

In Appeals Board Decision No. P-B-263 the Board held that a claimant left work with good cause where the leaving was motivated by her fear that the pressures of work and the air conditioning were affecting her health. The claimant had an arrested case of tuberculosis and had experienced a series of colds which she feared would lead to pneumonia.

In Rabago and in the above-cited precedent decisions it was the reaction of the individual to adverse factors in the work environment which formed the underlying basis for a finding of good cause.

In the present case, the working conditions to which the claimant was exposed were not particularly adverse. The claimant mentioned only that he was required to work various shifts. While working various shifts may be more stressful than working the same shift, such conditions are commonly found in industry. We recognize, also, that the claimant was working less than 40 hours per week.

However, it is well settled that "good cause" need not be connected with the employment (California Portland Cement Company v. California Unemployment Insurance Appeals Board (1960), 178 C.A.2d 263; 3 Cal.Rptr. 37).

In the case before us, the claimant entered an alcohol recovery facility in a sincere effort to control his alcoholism. While there, he concluded that a change in his

OVERSIGHT

total environment was essential in order to keep his alcoholism under control and preserve his marriage. This conclusion was reinforced by a discussion with his doctors. A leave of absence would not have afforded a permanent solution. Since leaving California his alcoholism has been under control and his marriage has stabilized. Under the circumstances of this case, we cannot say that the claimant acted unreasonably, and conclude that he had good cause to voluntarily quit his most recent employment.

DECISION

The decision of the administrative law judge is affirmed. The claimant is not disqualified under section 1256 of the code. The employer's account is not relieved of charges.

Sacramento, California, September 14, 1982.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairman

MARILYN H. GRACE

HERBERT RHODES

LORETTA A. WALKER

JAMES J. HAGARTY